

Office of the Secretary of Labor

§ 32.48

the Department may institute an administrative enforcement proceeding to compel compliance with the requirement, to seek appropriate relief, and or to terminate Federal financial assistance in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph if grants have not yet been approved or funds not yet committed to the recipient. However, the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until:

(1) The Assistant Secretary has advised the applicant or recipient of its failure to comply and compliance has not been secured by voluntary means; and

(2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program or activity, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until:

(1) The Assistant Secretary has determined that compliance cannot be secured by voluntary means;

(2) The recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and

(3) The expiration of at least 10 days from the mailing of such notice to the recipient or other person.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

§ 32.47 Hearing practice and procedure.

(a) All hearings conducted under section 504 of the Rehabilitation Act of 1973, as amended, and the regulations in this part shall be governed by the Department of Labor's rules of practice for administrative proceedings to enforce title VI of the Civil Rights Act of 1964 contained in 29 CFR part 31.

(b) For the purposes of hearings pursuant to this part 32, references in 29 CFR part 31 to title VI of the Civil Rights Act of 1964 shall mean section 504 of the Rehabilitation Act of 1973, as amended.

(c) The Assistant Secretary from time-to-time may assign to officials of other departments or agencies of the Government or of the Department of Labor (with the consent of such department or agency) responsibilities in connection with the effectuation of the purposes of section 504 of the Act and this part (other than responsibility for final decisions as provided in § 32.46), including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of section 504 and this part to similar programs or activities and in similar situations.

(d) Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Secretary.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51369, Aug. 26, 2003]

Subpart E—Auxiliary Matters

§ 32.48 Post-termination proceedings.

(a) An applicant or recipient adversely affected by an order suspending, terminating or refusing to

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grant or continue Federal financial assistance shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility, brings itself into compliance with this part and satisfies the Assistant Secretary that it will fully comply with section 504 and this part.

(b) Any applicant or recipient adversely affected by an order suspending, terminating or refusing to grant or continue Federal financial assistance may request the Assistant Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (a) of this paragraph. If the Assistant Secretary determines that those requirements have been satisfied, the applicant's or recipient's eligibility shall be restored.

(c) If the Assistant Secretary denies any such request, the applicant or recipient may submit a written request for a hearing, specifying why it believes the Assistant Secretary to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure specified in this part. The applicant or recipient will be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (a) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order suspending, terminating or refusing to grant or continue Federal financial assistance shall remain in effect.

§ 32.49 Recordkeeping.

(a) Each recipient shall maintain for a period of not less than three years records regarding complaints and actions taken thereunder, and such employment or other records as required by the Assistant Secretary or by this part and shall furnish such information in the form required by the Assistant Secretary or as the Assistant Secretary deems necessary for the administration of the Act and regulations in this part.

(b) Failure to maintain and furnish complete and accurate records as re-

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quired under this section is a ground for the imposition of appropriate sanctions.

§ 32.50 Access to records.

Each recipient shall permit access and copying during normal business hours to its places of business, books, records and accounts pertinent to compliance with the Act, and all rules and regulations promulgated pursuant thereto for the purposes of investigation.

§ 32.51 Rulings and interpretations.

Ruling under or interpretations of the Act and the regulations contained in this part 32 shall be made by the Assistant Secretary.

APPENDIX A TO PART 32

Accommodations may take many forms based on the type of handicap and the needs of the individual. In developing appropriate accommodations, the individual should be consulted as to particular needs.

The following is a list of possible types of accommodations provided for guidance and technical assistance. These suggestions are not mandatory, and other forms of accommodation not described herein may be required if they are appropriate to meet the needs of particular handicapped individuals.

Accommodations for Participants and Employees

(a) Job restructuring means the procedure which includes:

(1) Identifying the separate tasks that comprise a job or group of jobs;

(2) Developing new position descriptions which retain some of the tasks of the original job; and

(3) Developing a career ladder which builds upward from the new positions which contain the lesser skilled tasks to regular jobs. A restructured job can be clearly different from the original one in terms of skills, knowledge, abilities, and work experience needed to perform the work. Job restructuring is intended to maximize the abilities of the particular handicapped person and is not intended to permit a recipient to underemploy or job-stereotype that person. A restructured job, for example, could be one in which the more highly skilled but physically less demanding duties are retained, e.g. operating controls and switches in a steel mill, and less skilled, physically taxing duties, e.g. lifting, pulling, are reassigned to non-handicapped employees.

(b) Modify job or program schedules, for example, by allowing for a flexible schedule